

sustainable growth in Bolivia. Solving the tenure problems are a necessary (although by itself probably insufficient) step toward attacking the problem of poverty and achieving sustainable economic growth. The FAO's emphasis is on technical advice to MACA on tenure subjects in a non-confrontational manner. In this regard, the FAO has supported the *Grupo de Desarrollo Rural* (DRU), a local group of experts in agriculture policy. The FAO has also supported four forestry projects in Bolivia, working almost exclusively through non-governmental organizations (NGO's).

Recommendations for Future Action:

Two major actions are recommended to address the tenure constraints identified above as limiting the ability of the GOB to manage its natural resources and environment in a sustainable fashion. They are a study of land markets and tenure, and a series of tenure workshops to disseminate information.

Study of Land Markets and Tenure.

The Title III Program Document requires the GOB to initiate a process of studies and analyses together with a series of consultations with private and public sector individuals and institutions throughout the country which result in the development of a new law pertaining to land ownership.¹⁴ To avoid duplication of effort by donor agencies, the study should be coordinated with MACA.

The study should examine land markets in Bolivia and assess whether they should be further promoted, and if so where. This will entail technical assistance to GOB policy-makers on methods of land market liberalization, including land regularization, land taxation (urban and rural), agriculture finance, land banks, land purchase mechanisms, land-for-infrastructure, access to appropriate technology, agricultural extension, enforcement of land boundaries, elimination of subsidies and support for cattle and wheat production and for clearing of new lands, and other steps.

The land markets question is closely related to the environmental question. The study should assess what will happen to the fragile lowlands if land markets are liberalized and activated. What strategies are available within a market framework for protecting fragile areas, parks and reserves? How can land markets be structured such that we do not have a return to *latifundios*? Can land markets be used to locate people in rural areas, rather than continuing the rural-urban

¹⁴ See page 9 of the Title III Program Document.

migration (that has resulted in increased slum dwellings, and a rise in crime and socially discouraged behavior)?

Land ceilings are another theme to be addressed. Can they be used to assist the land market? For example, Mexico now has land size ceilings. Mexico is allowing largeholders a certain period of time to sell off land in excess of the maximum size limit. This provides an additional, potential supply of land to the land market.

The evaluation should also address concerns over water access. The study should determine who has access to water resources and under what conditions. Recommendations should be made for providing greater access to water both for drinking and agricultural purposes. This may include examination of current and proposed legislation, as well as customary water tenure and access rights. Is there any way to use market forces to improve access to water? What other steps should be taken to improve access to water and promote irrigation?

In the past, some have used the Beni for cocaine production. With U.S. Drug Enforcement Agency and Government of Bolivia activity, cocaine production is dropping off. This has led to a displacement of workers, who have since begun to illegally raid forest concessions of trees. Called "*motosierristas*" ("chainsawyers"), these groups need to be relocated to land where they can earn a legal living if the goals of alternative development are to be reached. An evaluation of the land market could take these individuals into account, and design ways to provide them with access to land and water resources.

Land finance mechanisms may also play a key role in liberating the land market. Successful mechanisms in El Salvador and the Dominican Republic have functioned on a sustainable basis in the private sector. What possibilities are there for a similar mechanism in Bolivia? Could this be used to relocate *motosierristas* to lowland areas?

The examination should address the confusion in Bolivia whether property ownership is based on title (via a purchase, *dotación*, *adjudicación*, etc.) or based on work and possession of the land (as stated in the constitution).

This evaluation should assess the impact of the new environmental initiative on indigenous groups. It would provide clear recommendations for local community-based management of natural resources should be explored and detailed.

In the past, Agrarian Reform legislation did not address the concerns of the eastern indigenous population. Some have alleged the law gave preference to cattle ranchers, colonizers and timber cutters, resulting in eastern indigenous populations not retaining their lands. The study should make recommendations to address these concerns.

Of particular interest to the evaluation should be how other countries have dealt with indigenous communities. In particular, efforts in Peru, Ecuador, Mexico, Costa Rica and Guatemala could be of interest.

Issues of *minifundio*, migration, ethnic groups, environmental impact, feasibility of relocation of population to lowland areas, among others, should be re-examined. A study by MACA, USAID/La Paz and the University of Wisconsin Land Tenure Center in 1967-71 study did not address the issues of biodiversity and the environment, or special legislation for traditional communities and ethnic groups. Over the past 25 years, the Agrarian Reform legislation has proven inadequate with regard to inheritance and the resultant minifundios. Lack of ownership of forestry and sub-soil rights has also produced problems.

A re-evaluation of the tenure structure should assess the impact of legislation since 1971, and assess the potential impact of policies presently under consideration. These will include: (1) *Ley General del Medio Ambiente* (April 27, 1992); (2) Draft bill for the *Pueblos Indígenas del Oriente, el Chaco y la Amazonía*; (3) *Ley 1257* (July 11, 1991)(which accepted the concept of recognition of indigenous communities); (4) Draft bill *Ley de Comunidades (campesinas e indígenas)*; (5) Draft bill for a new agrarian law (by José Luís Roca, proposing a new National Land Institute and commercialization of land); (6) *Ley Forestal* (August 13, 1974); (7) *Ley de Vida Silvestre Parques Nacionales*; and other legislative actions.

The funding system for local communities highlights another grave problem, that of a public finance deficiency. The centralized system is geared toward creating the opportunity for favoritism or corruption in government, while lessening the privileges of local residents to participate in democratic society at a local level. "Charity" from NGO, religious and foreign donor sources may or may not be what the community actually needs or wants. Thus, there is a potential for waste in development assistance. Decentralization of funding should thus be examined.

Decentralization of resources to the local community is more important in Bolivia than in other countries. Bolivia has a low population density. Centrally-managed development works best in high population density jurisdictions. It is less efficient in low population density countries.

The study should look for ways to reinforce local community government and provide it with the resources necessary for carrying out its functions. Of great potential interest will be the Venezuelan *Ley Orgánica para la Ordenación del Territorio* as one model for Bolivia.

Specifically, the following measures should be taken to up-date the tenure structure study:

1. Survey all agriculture policy-related projects in the country, including those of AID, the World Bank, FAO, UNDP, GTZ, the Dutch, *Cooperación Técnica Suiza*, Inter-American Development Bank, *Instituto Indigenista Boliviano*, and others, to insure that there is no duplication of effort in evaluating tenure constraints. Assist MACA in its coordination of these efforts, as needed.
2. Evaluation of the Agrarian Reform in its present stage, having left incomplete the delivery of titles to campesino owners.
3. Study and analysis of the laws and decrees regarding the Environment, protected areas and use of renewable natural resources. What are the economic forces that drive behavior with regard to natural resources? What has been the effect on land already deforested?
4. Evaluation of laws in favor of indigenous communities in the eastern lowlands of Bolivia and their access to land, providing results and recommendations.
5. Study and analysis of the jurisdictional conflicts between CNRA, INC, and the Centro de Desarrollo Forestal which result in overlaps and gaps in land ownership and conflicts among beneficiary groups.
6. Review colonizations and settlements in the lowlands to determine which have been successful and which have not. Why have they been successful? How have they been successful? What are the major constraints to a successful settlement strategy? What would be the environmental impact of such a strategy in the eastern lowlands? Make recommendations on how future settlements should be managed.
7. Recommend methods for strengthening local community government.¹⁵

¹⁵ One option would be to use the Mexican model. In Mexico, local communities have been given the "right" to access a fund of money for community use. The community puts up a percentage of funds from the community itself as a co-payment. The rest comes from a fund from the central government. The money can be used as the community sees fit: to purchase technical assistance, seed, road construction, etc. The amount of money made available to the community is a function of the number of members in that community (each community has a right to access a certain

8. Provide technical, operational assistance to the GOB on the professionalization, reorganization and streamlining of its institutions related to land and the environment. These include the CNRA, the INC, the CDF and SENMA. Specific analysis of the proposal to consolidate land-related functions into a single "National Land Institute" should be examined. The technical assistance should also address institutional priorities and needs. José Luís Roca's notion of departmentalized Land Institutes should be considered. The study should also address whether such an institute could have a semi-private nature.
9. Assess the impact of new and proposed legislation on women in both rural and urban settings. Recommendations for equalizing legal standing and status should be included.
10. Assist MACA in preparation of draft legislation based on the above evaluations and studies, and based on consensus opinion coming out of the tenure workshops.

To avoid duplication of effort, the study should take advantage of the data being produced in the World Bank Lowlands Project and the GTZ/CORDECRUZ 3 year study on forestry and natural resource use in the Santa Cruz area. The study should also take advantage of expertise and evaluations in MACA provided by the UNDP through the FAO. GTZ has also completed a study of proposed protected areas and a general overview of the Santa Cruz department.

The research team should be comprised of local attorneys and researchers, as well as outside tenure experts.

Tenure Workshops.

The Title III Program Document requires the GOB to initiate a process of studies and analyses together with a series of consultations with private and public sector individuals and institutions throughout the country which result in the development of a new law pertaining to land ownership.¹⁶

A new property ownership law will require that policy-makers have access to information necessary for appropriate decision-making, and that the law command broad support. To this end, it is necessary to promote dissemination of

amount *per capita*.

¹⁶ See page 9 of the Title III Program Document.

information on tenure options, the costs and benefits associated with various options, and lessons learned from other countries facing similar problems. This could be done through a series of national-level workshops. The workshops would provide a forum for informing policy-makers of tenure policy and provide an opportunity for public participation and debate in the legislative reform process.

1. Objectives of the Seminars

- I. To identify the main unresolved issues concerning land tenancy and transfer that deter economic productivity, sustainable natural resource use and management, and participation in a democratic society.
- II. To review the experience of other countries relevant to the main issues identified, and empirical data from Bolivia.
- III. To explore policy alternatives and recommendations to address the problems detected and concerns raised.

2. Seminar Topics

- I. *Ordenamiento territorial*: How should Bolivia allocate land among competing demands, including agricultural land, indigenous communities, forest reserves, housing, and so on. Who shall determine which lands are fragile and in need of protection, who shall protect them, and what resources are needed if this is to happen? How can soil use be controlled? Can an *ordenamiento territorial* be used for zoning? What has been the experience in other countries with ownership by indigenous communities?
- II. The Forest Concession System: What impact does it have on the environment? What are the options available and what are their costs and benefits? How have other countries addressed this problem? What are the tenure incentives for sustainable agro-forestry?
- III. Property registry: What are the costs and benefits? Can registry modernization formalize and legalize the new tenure relationships? Should individual titles be granted to all property owners, or should some (perhaps among the indigenous communities) be titled only collectively? Will titling individually lead to a return to latifundios?
- IV. Tenure and The Environment: How do tenure relationships impact on the Environment? What are the sustainable land uses consistent with sound environmental practice in specific areas. What concerns are there with Community Resource Management?

- V. Land Finance Mechanisms: What are the alternative models available for financing the transfer of property? How do we encourage reluctant owners/sellers to sell? How do we determine a "fair and reasonable price"? What factors impact on the land market?
- VI. Agricultural Credit: How can production and productive investment be financed? How can loans be recovered, to provide loanable funds for the next year?
- VII. Property Tax: Can land taxation play a role in providing resources for maternal and child health and nutrition, roads, schools and other community services? What would be needed to implement a more effective property tax? Have other Latin American countries been successful in implementing an effective property tax? What is the relation between land taxation and access to land? What is the relationship between land taxation and the environment?
- VIII. Community-based natural resource management: How are communities organized to use the natural resource base in an environmentally sustainable manner? What legal models are available? Is there a role for indigenous communities?

3. Participants

Because tenure is often a subject in which reasonable persons can have differing points of view, and because historically the subject has been very political in Bolivia, the goal of any reform process should include consensus on the modernization process. To this end, an inclusive approach is suggested. Participants should include members from diverse geographical areas, as well as members of:

I. Governmental Institutions: (those dealing with land)

- Ministry of Planning
- Ministerio de Asuntos Campesinos y Agricultura (MACA)
- Registro de la Propiedad Inmueble
- Consejo Nacional de Reforma Agraria (CNRA)
- Instituto Nacional de Colonización (INC)
- Centro de Desarrollo Forestal
- SENMA
- FONAMA
- Supreme Court
- Instituto Geográfico Militar
- Agrarian Inspectors (MACA)

Agrarian Judges

II. Political Parties: (major parties in Parliament)

III. Local Organizations:

Secretariat for P.L. 480
Indigenous Parliament
PDAR

IV. Local Research Centers:

local universities
CIAT
CUMAT
LIDEMA

V. Observers:

USAID/La Paz
The World Bank
The Inter-American Development Bank
Land Tenure Center
Other donors

4. Methodology

Each conference could comprise two days. The format for each day might be:

8:30-9:15	First Presentation
9:15-10:00	Second Presentation
10:00-10:15	BREAK
10:15-11:30	Small Group Discussion
11:30-12:15	Presentations by Small Groups to Plenary
2:30-3:15	First Presentation
3:15-4:00	Second Presentation
4:00-4:15	BREAK
4:15-5:30	Small Group Discussion

5:30-6:15

Presentations by Small Groups to Plenary

Papers to be presented will be distributed at registration. The "memorias" will be published following each conference. Presenters must deliver papers at least one week in advance.

5. Logistics

Where: Various sites throughout the country
When: Once per month.

6. Budget

The budget will be a function of where the event will be held and number of participants. One month LOE (one person) in preparation, organization, logistics and follow up with memorias will be required for each conference.

Round trip air fare, salary and other related expenses for foreign participants will also be required.

7. Possible Organizers

MACA, FAO, P.L. 480.